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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

PAUL LOUIS BLANK,  
Plaintiff,

No. 2:17-CV-0861-JAM-CMK

vs.

FINDINGS AND RECOMMENDATIONS

STATE OF CALIFORNIA, et al.,  
Defendants.

\_\_\_\_\_ /

Plaintiff, who is proceeding pro se, brings this civil action. Pending before the court is plaintiff's complaint (Doc. 1).

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The court is also required to screen complaints brought by litigants who have been granted leave to proceed in forma pauperis. See 28 U.S.C. § 1915(e)(2). Under these screening provisions, the court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. §§ 1915(e)(2)(A), (B) and 1915A(b)(1), (2). Moreover, pursuant to Federal Rule of Civil Procedure 12(h)(3), this court

1 must dismiss an action if the court determines that it lacks subject matter jurisdiction. Because  
2 plaintiff, who is not a prisoner, has been granted leave to proceed in forma pauperis, the court  
3 will screen the complaint pursuant to § 1915(e)(2). Pursuant to Rule 12(h)(3), the court will also  
4 consider as a threshold matter whether it has subject-matter jurisdiction.

5 In this case, plaintiff names the following as defendants: (1) the State of  
6 California; (2) the County of Tehama; and (3) the United States Social Security Administration.  
7 Plaintiff alleges that this court has jurisdiction “based on a civil rights claim. . . .” For the  
8 reasons discussed below, the court finds that plaintiff fails to state a claim upon which relief can  
9 be granted.

10 State of California – The Eleventh Amendment prohibits federal courts from  
11 hearing suits brought against a state both by its own citizens, as well as by citizens of other states.  
12 See Brooks v. Sulphur Springs Valley Elec. Coop., 951 F.2d 1050, 1053 (9th Cir. 1991). This  
13 prohibition extends to suits against states themselves, and to suits against state agencies. See  
14 Lucas v. Dep’t of Corr., 66 F.3d 245, 248 (9th Cir. 1995) (per curiam); Taylor v. List, 880 F.2d  
15 1040, 1045 (9th Cir. 1989). Plaintiff cannot maintain a civil rights action against the State of  
16 California because it is immune from suit.

17 County of Tehama – Municipalities and other local government units are among  
18 those “persons” to whom liability applies in a civil rights action. See Monell v. Dep’t of Soc.  
19 Servs., 436 U.S. 658, 690 (1978). Counties and municipal government officials are also  
20 “persons” for purposes of § 1983. See id. at 691; see also Thompson v. City of Los Angeles, 885  
21 F.2d 1439, 1443 (9th Cir. 1989). A local government unit, however, may not be held responsible  
22 for the acts of its employees or officials under a respondeat superior theory of liability. See Bd.  
23 of County Comm’rs v. Brown, 520 U.S. 397, 403 (1997). Thus, municipal liability must rest on  
24 the actions of the municipality, and not of the actions of its employees or officers. See id. To  
25 assert municipal liability, therefore, the plaintiff must allege that the constitutional deprivation  
26 complained of resulted from a policy or custom of the municipality. See id. In this case, plaintiff

1 does not allege any improper custom or policy. Rather, it appears that plaintiff is unhappy with  
2 the outcome of his case. Because plaintiff has not alleged any deficient policy or custom of the  
3 County of Tehama, plaintiff fails to state a claim against this defendant.

4 United States Social Security Administration – Plaintiff fails to state a claim  
5 because has not alleged any facts relating to this defendant. See Kimes v. Stone, 84 F.3d 1121,  
6 1129 (9th Cir. 1996).

7 Because it does not appear possible that the deficiencies identified herein can be  
8 cured by amending the complaint, plaintiff is not entitled to leave to amend prior to dismissal of  
9 the entire action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc).

10 Based on the foregoing, the undersigned recommends that this action be dismissed  
11 for failure to state a claim upon which relief can be granted.

12 These findings and recommendations are submitted to the United States District  
13 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days  
14 after being served with these findings and recommendations, any party may file written  
15 objections with the court. Responses to objections shall be filed within 14 days after service of  
16 objections. Failure to file objections within the specified time may waive the right to appeal.  
17 See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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19 DATED: July 30, 2018

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21 **CRAIG M. KELLISON**  
22 UNITED STATES MAGISTRATE JUDGE  
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